

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

WASHINGTON HARBOUR, SUITE 400

3050 K STREET, NW

WASHINGTON, DC 20007

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

JOHN J. HEITMANN

DIRECT LINE: (202) 342-8544

EMAIL: jheitmann@kelleydrye.com

NEW YORK, NY
LOS ANGELES, CA
HOUSTON, TX
AUSTIN, TX
CHICAGO, IL
PARSIPPANY, NJ
STAMFORD, CT
BRUSSELS, BELGIUM

AFFILIATE OFFICE
MUMBAI, INDIA

November 6, 2019

By ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **National Lifeline Association and Q Link Wireless LLC Joint Written
Ex Parte Presentation, WC Docket Nos. 17-287, 11-42, 09-197 and 10-
90**

Dear Ms. Dortch:

The National Lifeline Association (NaLA) and Q Link Wireless LLC (Q Link) continue to urge the Commission to grant the pending Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study filed by CTIA, the National Consumer Law Center, National Hispanic Media Coalition, OCA – The Asian Pacific American Advocates, and United Church of Christ, OC, Inc.¹ **as filed** for the reasons detailed in NaLA's recent *ex parte* letters and comments filed on the Joint Petition,² and Q Link's *ex parte* letter and comments filed on the Joint Petition.³ Further, the Commission

¹ See Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket Nos. 11-42, 09-197, 10-90 (June 27, 2019) (Joint Petition to Pause Implementation).

² See National Lifeline Association Notice of Oral *Ex Parte* Presentations, WC Docket Nos. 17-287, 11-42, 09-197 and 10-90 at 10 (filed Aug. 29, 22 and 16, 2019); National Lifeline Association Comments on Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket Nos. 11-42, 09-197, 10-90 (filed July 31, 2019).

³ See Q Link Wireless LLC Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, 09-197 and 10-90 (filed Aug. 29 and 22, 2019); Q Link Wireless Comments on Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket Nos. 11-42, 09-197, 10-90 (filed July 31, 2019).

Marlene Dortch
November 6, 2019
Page Two

should grant the Joint Petition to Pause Implementation so that it can; (1) fully consider and act on the pending petitions for reconsideration of the 2016 Lifeline Modernization Order’s adoption of minimum service standards (MSS) without proper consideration of access and affordability; and (2) study the Lifeline service offerings and other retail offerings in the wireless marketplace and issue the State of the Lifeline Marketplace Report.⁴ Such considerations and deliberations would allow the Commission to effectively balance the goals of reasonable comparability and affordability set forth in the 2016 Lifeline Modernization Order.⁵

However, to the extent Commission is considering partially granting the Joint Petition to Pause Implementation and increasing the mobile broadband MSS, we have argued that the Commission should support three minimum service options as of December 1, 2019 to avoid imposing a price increase on existing Lifeline subscribers and to ensure the availability of affordable service offerings for all Lifeline-eligible consumers in all states:⁶

Plan Type	Minimum Standard	Subsidy Support Amount
Broadband	3 GB	\$9.25
Broadband and Voice Bundle	2 GB + 1,000 minutes	\$9.25
Voice	1,000 minutes	\$7.25

⁴ See Joint Lifeline ETC Petitioners’ Petition for Partial Reconsideration and Clarification, WC Docket No. 11-42 et al. (filed June 23, 2016); Petition for Reconsideration of TracFone Wireless, Inc., WC Docket No. 11-42 et al. (filed June 23, 2016); Petition for Reconsideration of CTIA, WC Docket No. 11-42 et al. (filed June 23, 2016).

⁵ *Lifeline and Link Up Reform and Modernization*, WC Docket Nos. 11-42, 09-197, 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, ¶ 71 (2016) (“The minimum standards we establish will also account for the need for Lifeline service offerings to be affordable. As we noted, ‘the Lifeline program is specifically targeted at affordability’ and it is necessary to establish minimum service levels that are both affordable and reasonably comparable...The minimum standards that we establish strike a balance between the demands of affordability and reasonable comparability by providing consumers with services that allow them to experience many of the Internet’s offerings, but not mandating the purchase of prohibitively expensive service offerings.”). The formula for December 1, 2019 does not consider the demands of affordability and strike this balance, and the Commission must study the Lifeline marketplace before it can do so.

⁶ See National Lifeline Association and Q Link Wireless LLC Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, 09-197 and 10-90 (filed Nov. 1, 2019).

Marlene Dortch
November 6, 2019
Page Three

Under a partial grant scenario, these three standards should remain effective until the Commission decides pending petitions for reconsideration and issues the State of the Lifeline Marketplace Report (which could be moved forward from June 2021).

As was explained in the Q Link and NaLA October 30, 2019 and November 1, 2019 *ex parte* filings, this proposal incorporates TracFone's 3 GB proposal⁷ while also adding a broadband and voice bundle MSS that provides consumers with the bundled mix of service offerings they overwhelmingly prefer, while providing ETCs with an option that will make enrollment of new Lifeline subscribers in "\$9.25 states" (i.e., states without substantial subsidies that can be combined with the basic federal Lifeline subsidy of \$9.25) possible on the same no co-pay basis as existing subscribers. Q Link enrolls subscribers broadly in \$9.25 states, with an emphasis on serving low-income Americans residing in rural areas, and Q Link is prepared to offer the 2 GB plus 1,000 minute bundle to existing and new subscribers across its designated ETC footprint. Without this third option, active enrollment of new Lifeline subscribers will be further diminished if not virtually eliminated in \$9.25 states.

Yesterday, CTIA filed an *ex parte* letter supporting TracFone's 3 GB alternative proposal without mention of the additional Q Link and NaLA proposals set forth above and in the October 30, 2019 and November 1, 2019 NaLA and Q Link *ex parte* filings.⁸ Although CTIA had extensively coordinated the Joint Petition to Pause Implementation, as well as its subsequent related filings, with large and small Lifeline service providers, including those that are members of CTIA and those that are not, CTIA did not coordinate its November 5 *Ex Parte* Letter with its own members Q Link, Telrite Corporation or Boomerang Wireless, LLC, or non-CTIA member Lifeline providers. Thus, it is important that the record reflect that CTIA's latest filing does not reflect the broad coalition of Lifeline service providers it had represented before.

Because CTIA's filing does not reflect the same broad industry consensus that went into the filing of the Joint Petition to Pause Implementation and related filings made prior to yesterday (nor does it reflect a lack of consensus – it simply does not address the Q Link and NaLA proposal made in October 30 and November 1 *ex parte* filings) – and due to present time constraints, this filing is intended to clarify the record to make clear that CTIA members Q Link, Telrite and Boomerang, and other Lifeline service providers, including NaLA members Amerimex Communications Corp., Assist Wireless, LLC, Cintex Wireless, LLC, Easy

⁷ See TracFone Wireless, Inc. *Ex Parte* Presentation, WC Docket Nos. 11-42, 09-197, 10-90 at 2 (filed Oct. 30, 2019).

⁸ See CTIA *Ex Parte* Letter, WC Docket Nos. 11-42, 09-197, 10-90 (filed Nov. 5, 2019).

KELLEY DRYE & WARREN LLP

Marlene Dortch
November 6, 2019
Page Four

Telephone Services Company d/b/a Easy Wireless, i-wireless, LLC, NewPhone Wireless LLC, and Sage Telecom Communications, LLC d/b/a TruConnect support the Q Link and NaLA proposal. That proposal includes, but is not limited to, the TracFone proposal and adds another option designed to ensure that Lifeline works in all states for the benefit of low-income consumers no matter where they live, including those not fortunate enough to live in a jurisdiction where substantial additional subsidies are available.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



John J. Heitmann
Joshua Guyan
Kelley Drye & Warren LLP
3050 K Street, NW, Suite 400
Washington, DC 20007
(202) 342-8400

*Counsel to the National Lifeline Association and
Q Link Wireless LLC*